

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEP 09 2003

JAMES R. LAMSON, CLERK  
RICHLAND, WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY

Plaintiff,

v.

UNITED STATES  
DEPARTMENT OF ENERGY,

Defendant.

No. CT-99-5076-EFS

~~PROPOSED~~ ORDER  
GRANTING THIRD  
AMENDMENT TO  
CONSENT DECREE

Having considered the parties' Joint Motion For Third Amendment To Consent Decree, and having reviewed that proposed amendment, the Court finds that the proposed amendment is in the public interest and hereby GRANTS the parties' joint motion.

It is hereby ORDERED that the Consent Decree entered on September 29, 1999 is amended by adding the following underlined text on page 20 of that Consent Decree:

**Completion of Interim Stabilization.** DOE will complete interim stabilization of all 29 single-shell tanks listed above by September 30,

ORDER GRANTING THIRD  
AMENDMENT TO CONSENT DECREE

RECEIVED

SEP 05 2003

CLERK, US DISTRICT COURT

U. S. DEPARTMENT OF JUSTICE  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, NE  
Seattle, WA 98115-0070  
(206) 326-6607

1 2004, except as provided for below with respect to tanks S-102 and  
2 S-112.

3  
4 In order to allow accelerated retrieval of waste in tanks S-102 and S-  
5 112 in lieu of interim stabilization, DOE's obligation to complete  
6 interim stabilization of those two tanks is held in abeyance, provided  
7 that DOE completes S-102 Initial Retrieval Project Design (per  
8 HFFACO milestone M-45-05B) and S-112 Saltcake Waste Retrieval  
9 Technology Demonstration Design (per HFFACO milestone M-45-  
10 03D) by 5/31/03; completes S-102 Initial Waste Retrieval Project  
11 Construction (per HFFACO milestone M-45-05C) and S-112  
12 Saltcake Waste Retrieval Technology Demonstration Construction  
13 (per HFFACO milestone M-45-03E) by 3/31/04; and completes  
14 Initial Waste Retrieval from Tank S-102 (Per HFFACO milestone M-  
15 45-05A) and Full Scale Saltcake Waste Retrieval Technology  
16 Demonstration at Tank S-112 (Per HFFACO milestone M-45-03C) by  
17 3/31/05. DOE's obligation to complete interim stabilization of Tank  
18 S-102 shall be satisfied upon completion of Initial Waste Retrieval  
19 from Tank S-102. DOE's obligation to complete interim stabilization  
20 of Tank S-112 shall be satisfied upon completion of Full Scale  
21 Saltcake Waste Retrieval Technology Demonstration at Tank S-112.

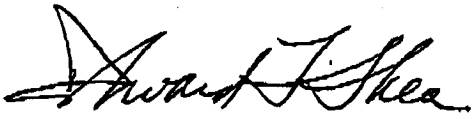
22  
23 In the event that DOE fails to complete one or more of the above  
24 HFFACO milestones by the required date, Ecology may not seek  
25 enforcement under this consent decree of the above HFFACO  
26 milestones. Rather, at Ecology's option, the requirement for interim  
27 stabilization of tanks S-102 and/or S-112 will no longer be in

1 abeyance, and DOE will be required by this Decree to complete  
2 interim stabilization of the subject tank(s) within 18 months of  
3 Ecology's written notification of its election. Moreover, Ecology  
4 reserves any and all rights it may have to take enforcement or other  
5 action independent of this Consent Decree, by virtue of a failure by  
6 DOE to complete one or more of the above HFFACO milestones:  
7 Energy reserves any and all defenses it may have in response to any  
8 such Ecology action.

9  
10 In addition, in order to allow DOE to accelerate retrieval of Tanks  
11 S-102 and S-112 prior to completion of interim stabilization,  
12 pumpable liquid remaining in those two tanks and liquid pumped to  
13 date from those two tanks shall not be counted in the calculation of  
14 the September 30, 2003 deadline in the following paragraph  
15 regarding 'percentage of pumpable liquid remaining to be removed'  
16 by that date.

17  
18 IT IS SO ORDERED.

19  
20 Dated this 9<sup>th</sup> day of September, 2003.

21  
22   
23 \_\_\_\_\_  
24 Honorable Edward F. Shea  
25 UNITED STATES DISTRICT  
26 JUDGE  
27  
28

ORDER GRANTING THIRD  
AMENDMENT TO CONSENT DECREE - 3 -

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